

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

---

BANKRUPTCY APPEAL NO. 05-40052-MLW

---

HARRIET MENEZES,  
DEBTOR

---

THE STATE UNIVERSITY OF NEW YORK – STUDENT LOAN SERVICE CENTER  
DEFENDANT/APPELLANT

V.

HARRIET MENEZES,  
PLAINTIFF/APPELLEE

---

**ASSENTED MOTION TO CONSOLIDATE BANKRUPTCY APPEAL NUMBER  
05-40053-MWL INTO BANKRUPTCY APPEAL NUMBER 05-40052-MWL**

NOW COMES Educational Credit Management Corporation (hereinafter "ECMC") an interested party in the appeal at bar and the appellant in bankruptcy appeal number 05-40053-MWL, and respectfully moves that bankruptcy appeal number 05-40053-MWL be consolidated into bankruptcy appeal number 05-40052-MWL. In support of this motion to consolidate, ECMC states the following:

1. On February 14, 2005, the appellant in the bankruptcy appeal at bar, The State University of New York – Student Loan Service Center ("SUNY"), filed its notice of appeal and election to proceed with the appeal in the District Court.
2. The SUNY appeal was given the case number 05-40052-MWL.
3. The appeal of SUNY concerns, in part, whether the lower court properly found the existence of an undue hardship under 11 U.S.C. § 523(a) (8) such that the appellee's student loans held by SUNY should have been discharged.
4. Later in the day on February 14, 2005, ECMC, a co-defendant in the lower court proceeding, also filed its notice of appeal and election to proceed with the bankruptcy appeal in the District Court.
5. The ECMC appeal was give the case number 05-40053-MWL.

-2-

6. The appeal of ECMC concerns, in part, whether the lower court properly found the existence of an undue hardship under 11 U.S.C. § 523(a) (8) such that the appellee's student loans held by ECMC should have been discharged.
7. The appellee is the same in both the appeals of SUNY and ECMC.
8. ECMC submits that the appeals of SUNY and ECMC are similar in nature and should be combined in the interests of judicial economy.
9. Prior to filing this motion, counsel for ECMC has conferred with counsel for SUNY and counsel for the appellee, and both counsel have assented to the filing of this motion and for the consolidation of the appeals of ECMC and SUNY.
10. The only parties to appeal the lower court decision were ECMC and SUNY, and, as such, no prejudice will result by the allowance of this motion as all parties are in agreement as to consolidation of the appeals.
11. As all parties are in agreement herein, it is respectfully submitted that there is no need to schedule a hearing on this motion.

WHEREFORE ECMC requests that the following relief be granted:

- A. That this Honorable Court consolidate bankruptcy appeal number 05-40053-MWL into bankruptcy appeal number 05-40052-MLW; and
- B. Any and all other relief that this Court deems to be just and reasonable.

Respectfully submitted,  
Educational Credit Management Corporation  
By its attorney,



---

John F. White, Esq. BBO# 558367  
Topkins & Bevans  
150 Grossman Drive, Suite 305  
Braintree, MA 02184  
Tel. 781-849-5906  
jwhite@topbev.com

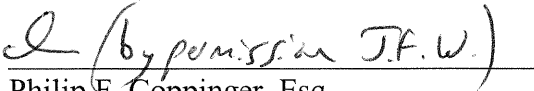
Dated: September 8, 2005

-3-

Assented to:

Harriet Menezes, Appellee

By her attorney,

 (by permission J.F.W.)

Philip F. Coppinger, Esq.

Seder & Chandler

339 Main Street

Worcester, MA 01608

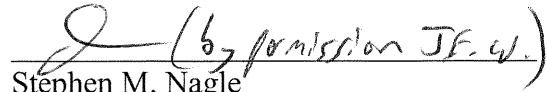
(617) 426-0681

[pfcoppinger@Sederlaw.com](mailto:pfcoppinger@Sederlaw.com)

The State University of New York –

Student Loan Service Center, Appellant

By its attorney,

 (by permission J.F.W.)

Stephen M. Nagle

Assistant Attorney General

The Capital

Albany, NY

518-474-0594

[Stephen.Nagle@oag.state.ny.us](mailto:Stephen.Nagle@oag.state.ny.us)

**CERTIFICATE OF SERVICE**

I, John F. White, attorney for Educational Credit Management Corporation hereby certify that I have served a copy of the attached Motion to Consolidate on the following parties, by sending a copy of same via electronic notice as listed below, and by mailing a copy of the same, first class mail, postage prepaid, on September 8, 2005.

Respectfully submitted,

  
John F. White, Esq. BBO# 558367

Philip F. Coppinger, Esq.

Seder & Chandler

339 Main Street

Worcester, MA 01608

(617) 426-0681

[pfcoppinger@Sederlaw.com](mailto:pfcoppinger@Sederlaw.com)

Stephen M. Nagle

Assistant Attorney General

The Capital

Albany, NY

518-474-0594

[Stephen.Nagle@oag.state.ny.us](mailto:Stephen.Nagle@oag.state.ny.us)